FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.889 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mrs.Mallika A.Ingale for the applicants.

Mr.Sanjay Mishra & Janetle Lucas for Respondent no.2.

Mr.Rajesh More, APP for the State.

Coram : R.S.Mohite,J

Date : 21.3.2006.

PC

1. Heard both sides. Rule. By consent, rule made returnable forthwith.

2. This is an application for quashing C.C.No.500/P/2000 pending before the Metropolitan Magistrate, 24th Court, Borivali, Bombay. Respondent no.2-wife has filed an affidavit consenting to the quashing of the case. It appears from the record that the case in question has been filed by the police alleging offence under Section

498-A read with 34 of IPC. The present applicants have been shown as an accused in the aforesaid case. It appears from the affidavit of reply filed by respondent no.2 that the parties have settled their dispute and filed petition for divorce by mutual consent before the Family Court. An amount of Rs.2,00,000/- has been deposited in the Family Court towards full and final settlement of the maintenance/alimony. It is common ground that decree for divorce is yet to be passed. Advocate for respondent no.2 states that it is not necessary to wait for the decree. Both parties relied upon the judgment of the Apex Court in the case of **B.S.Joshi Vs. State of Haryana reported in 2004(1) Bom.C.R.(Cri.) 93**.

3. In this view of the matter, rule is made absolute in terms of prayer clause-(ii). Needless to say that respondent no.2 will

be at liberty to withdraw the amount of Rs.2,00,000/- pending in the Family Court. Application stands disposed of.

(R.S.Mohite,J)